

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

IVETTE FIGUEROA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-10-760-M
)	
DEPARTMENT OF CORRECTIONS,)	
et al.,)	
)	
Defendants.)	

ORDER

On March 8, 2012, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation on Motion to Dismiss/Motion for Summary Judgment of Defendants Onajobi, Fort, Murry, Franklin, Shopeyin, Jones, Hendrickson, Newton-Embry and Duncan in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's federal constitutional rights. The Magistrate Judge recommended that defendants' motion to dismiss/motion for summary judgment, construed as a motion for summary judgment, be granted on grounds plaintiff has failed to exhaust administrative remedies as required by 42 U.S.C. § 1997e(a) and that plaintiff's motion for summary judgment be denied. Additionally, the Magistrate Judge recommended that this Court exercise its discretion under 28 U.S.C. § 1367(c)(3) and dismiss any remaining claims that are based on state law without prejudice. The parties were advised of their right to object to the Report and Recommendation by March 29, 2012. On that date, plaintiff filed her objections.

Having carefully reviewed this matter de novo, the Court:

- (1) ADOPTS the Report and Recommendation on Motion to Dismiss/Motion for Summary Judgment of Defendants Onajobi, Fort, Murry, Franklin, Shopeyin, Jones, Hendrickson, Newton-Embry and Duncan [docket no. 124] issued by the Magistrate Judge on March 8, 2012;

- (2) GRANTS defendants' Motion to Dismiss/Motion for Summary Judgment [docket no. 86], construed as a motion for summary judgment, on the grounds that plaintiff has failed to exhaust her administrative remedies as required by 42 U.S.C. § 1997e(a), and
- (3) DENIES plaintiff's Motion for Summary Judgment [docket no. 118].¹

IT IS SO ORDERED this 30th day of March, 2012.


VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE

¹The Court will determine whether to exercise its discretion under 28 U.S.C. § 1367(c)(3) and dismiss any remaining claims that are based on state law without prejudice only if and when all remaining federal claims have been dismissed.